IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 2197 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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RAJENDRA M BHATT - Petitioner(s)
Versus
DENNIS CHEM LABORATORY LTD - Respondent(s)

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Appearance :
MR PH PATHAK for Petitioner(s) : 1,
MR UDAY JOSHI for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 09/07/2007

ORAL JUDGMENT

1. Mr.P.H. Pathak, learned counsel for the petitioner and Mr.Uday Joshi, learned counsel for the respondent.

2. The petitioner workman, being aggrieved by the award

dtd.20/5/1999 passed by the learned Presiding Officer, Labour Court, Kalal in Reference (LCK) No.530 of 1987 (Old No.530 of 1987), is before this Court with a complaint that the findings recorded by the Labour Court that the petitioner had abandoned the work, are contrary to records. According to him, the management had filed an application-cum-note before the court below that they were ready and willing to re-employ the petitioner and in response to that offer, the petitioner went to the department, but he was not reemployed, therefore, the petitioner had issued a notice to the respondent on 21/11/1997 and under the circumstances, the court below could not justifiably hold that the petitioner has not proved his will to work.

3. Mr.Joshi, learned counsel for the respondent establishment on the other hand, submits that the petitioner made a complaint that he was orally retrenched / removed from service on 16/8/1986, but he did not file a claim petition upto the year 1990, nor the petitioner could prove that after 16/8/1986, he ever went to the work place nor lead any evidence to prove the contents of Exh.21/1 – notice dtd.21/11/1997, has been brought on record.

4. The learned court below has given cogent reasons to hold that there was no good reason for the petitioner to leave the work place, the Court has also expressed its surprise that if the petitioner was orally retrenched w.e.f. 17/8/1986, then, there was no reason for the workman to file a claim petition on 17/7/1990. The unexplained delay, in fact, would speak against the interest of the petitioner.
5. So far as Exh.21/1 – notice dtd.21/11/1997 is concerned, the same in the opinion of this Court, was not proved in accordance with law. After the application was filed by the other-side, the petitioner went to join but was not allowed to join, then the petitioner was required to make a complaint to the Judge / Court in writing that the respondent was playing fraud with the Court. Even otherwise, no affidavit has been filed in support of the notice dtd.21/11/1997.
6. It is trite to say that the production of a document is not the proof of the document and if a document refers to the factual statements, then, such statements are required to be proved by leading oral evidence.
7. In the present case, I am unable to find any evidence which can legally support the case of the petitioner. The Court below was absolutely justified in answering the

reference against the interest of the petitioner.

8. I find no reason to interfere. The petition deserves to and is accordingly dismissed. Rule is discharged. Interim relief, if any, is vacated. No costs.

(R.S. GARG, J.)

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